

## REMARKS

Claims 1-12 are pending and under active consideration in this application.

Claim 1 was amended to correct an informality. Claim 1 now reads "A method for providing a freshly baked food product" rather than "A method for providing freshly a baked food product." Claim 4 was amended to correct another informality that was identified by the Examiner, where "for and" has now been changed to "and for."

Claim 2 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. In particular, the Examiner maintained that there is no antecedent basis for "the frozen pizza base" recited in claim 2 (Office Action, page 2). Claim 2 has been amended to change "the frozen pizza base" to "the frozen crust" so that this term clearly does have an antecedent basis in claim 1.

Claims 1, 8-10, and 12 were rejected under 35 U.S.C. § 102(b) as being clearly anticipated by U.S. Patent No. 5,256,432 to McDonald et al. ("McDonald"). The Examiner directed Applicants' attention to Col. 5, lines 17-38 of McDonald (Office Action, page 3). McDonald discloses a pizza toppings disk (Col. 1, lines 54-55). In particular, the pizza disk is formed by combining a quantity of cheese with a plurality of pizza toppings to form a single layer, which is appropriately shaped to be placed on a pizza shell (Col. 1, lines 62-65). The cheese and toppings are "fused together" to form a pizza toppings disk that is stored for subsequent use in assembling a pizza (Col. 1, lines 65-67). An uncooked pizza is formed by assembling the pizza toppings disk and a pizza shell (Col. 1, lines 67-68 and Col. 2, line 1). The disk and shell are then baked together to provide a pizza (Col. 2, lines 2-3).

Claim 1 has been amended to emphasize that the frozen pizza toppings are *individually* frozen and these frozen toppings are then applied *individually* on the frozen crust (See Specification, paragraphs [0006], [0009], and [0011]). Thus, claim 1 now recites a method for providing a freshly baked food product comprising freezing a dough based crust, freezing pizza toppings *individually* and separately from the crust, assembling a frozen food product by *applying the frozen toppings individually* on the frozen crust, and baking the frozen food product to produce the baked food product. Moreover, the baking step takes less time than for a dough crust that is frozen together with the toppings. Claim 9 has similarly been amended to stress that each topping is frozen by separately freezing the different types of toppings.

McDonald does not teach or disclose placing the frozen toppings *individually* onto the frozen crust. Instead, McDonald teaches a *fused* pizza toppings disk made from cheese and other selected pizza toppings (See Col. 1, lines 65-67). In other words, all of the toppings are combined together to form an aggregate layer in McDonald. This aggregate layer is then placed on top of the pizza crust (See FIG. 3). This is definitely different from the present method, where the individual toppings are placed on the crust *one at a time*. In fact, placing the toppings individually on the crust is exactly what McDonald wishes to avoid. McDonald lists applying pizza toppings onto the shell *one at a time* as one of the numerous labor intensive steps in the preparation and cooking of pizzas (emphasis added) (Col. 1, lines 15-19).

Thus, McDonald intends to eliminate this step from pizza preparation. McDonald believes that his method has the advantages of convenience, better uniformity of pizzas made by different employees, and closer control over the final product because a pizza toppings disk can be made prior to when a pizza is ordered (Col. 2, lines 28-33). Another advantage includes less preparation time for a pizza (Col. 2, lines 41-42). When an order for a pizza is received, the pizza can be assembled more quickly by using the pizza toppings disk that has been prepared in advance than by using the present traditional methods of making a pizza, *i.e.*, placing each topping on the crust individually (Col. 2, lines 42-46).

Moreover, unlike the present method, McDonald does not allow for customization of the pizza toppings since the disk is formed prior to use in assembling of a pizza (See Col. 1, lines 65-67). In contrast, the present method provides that individually frozen ingredients are placed on a frozen dough crust that can be baked directly or stored for a short time under chilled conditions (See Specification, paragraph [0010]). This allows the operator to customize a pizza in endless ways, *i.e.*, by allowing him to place any amount and kind of topping on the crust (See Specification, paragraph [0010]).

Because McDonald does not disclose disposing individually frozen ingredients separately onto a pizza crust, McDonald cannot anticipate claim 1. Furthermore, as claims 8-10 and 12 depend from claim 1, they are also not anticipated by McDonald.

Claim 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over McDonald. As explained in the above paragraphs, McDonald does not disclose or suggest all of the limitations of claim 1. As claim 2 depends from claim 1, claim 2 is also patentable over McDonald.

Claims 4-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over McDonald in view of U.S. Patent No. 4,164,591 to Ahlgren et al. ("Ahlgren"). The Examiner maintains that while McDonald is silent as to baking a frozen pizza at a temperature of between 280°C to 450°C to produce a cooked pizza product in less than 5 minutes, Ahlgren shows baking a frozen pizza at a temperature of between 300°C to 375°C in 3 minutes (Office Action, page 3).

Ahlgren teaches a method of heating a food article by placing the food while in a refrigerated state into an oven, broiling the topping, baking the crust and the topping, and lastly toasting the crust (Abstract). The oven of Ahlgren is, however, strikingly different from a conventional oven. For example, FIG. 1 of Ahlgren illustrates an oven with a conveyer-type track and different baking zones. As the food article travels on the track, it is exposed to different amounts of heat (Col. 3, lines 4-39). For instance, the broiling zone comprises the section where the radiant heater is immediately atop the food article (Col. 3, lines 18-20), and the portion of the track heated by convection is called the baking zone (Col. 3, lines 28-31). The radiant heater is normally on and maintains the temperature of the air within the oven at about 315 to 375°C (Col. 3, lines 36-39).

However, unlike the present method, Ahlgren does not show or even suggest using such temperatures in a conventional oven. Instead, Ahlgren discloses using these temperatures in a special oven with a moving track and different zones where the food article is exposed to different amounts of heat to produce a tasty baked product. Another embodiment of the oven of Ahlgren illustrates the same concept (*See* FIG. 3). Ahlgren recites that "an important feature of the oven is that it has separate broiling, baking, and toasting zones with the broiling and toasting zones having their own heating elements" (Col. 6, lines 45-48). In contrast, the present method allows such temperatures to be used because of a temperature gradient formed in the inside of the oven, without the use of different heating elements located in different portions of the oven or a moving track. The heating of the oven at a temperature of about 300 to 350°C, with a gradient from about 280 to 300°C on the base to about 400 to 450°C at the top of the dome, allows the baking of a frozen pizza in about 3 to 4 minutes (Specification, paragraph [0014]). Thus, it would not be obvious to combine the temperatures taught in Ahlgren with the present method.

Moreover, McDonald and Ahlgren combined do not suggest disposing individually frozen ingredients individually on a crust as recited in claim 1. To the contrary, McDonald appears to discourage doing this, and presents a way to avoid this step (*See* above

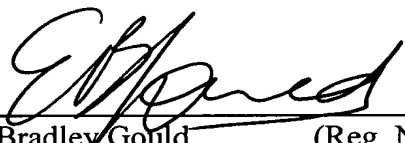
discussion). Indeed, McDonald mentions only fused pizza toppings (Col. 1, lines 65-67; Col. 2, lines 8-11 and lines 15-17; Col. 3, line 68; Col. 4, lines 50-53 and lines 62-63; Col. 5, lines 10-12 and line 13; and Col. 6, lines 32-33). McDonald even recommends several methods of fusing the cheese and selected pizza toppings such as partially melting the cheese, applying a vacuum, or applying a pressure such as a roller press (Col. 4, lines 53-61). Because claims 4-7 depend from claim 1, they cannot be obvious in view of McDonald and Ahlgren.

Finally, claim 11 was rejected under 35 U.S.C. § 103(a) as being unpatentable over McDonald. As discussed in the preceding paragraphs, McDonald does *not* make any suggestion to one skilled in the art to prepare a pizza by placing individually frozen pizza toppings individually onto a pizza crust as recited in claim 1. As claim 11 depends from claim 1, claim 11 is also patentable over McDonald.

In view of the above, all rejections have been overcome and should be withdrawn. Accordingly, the entire application is believed to be in condition for allowance, early notice of which would be appreciated.

Respectfully submitted,

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